

STATE OF SOUTH CAROLINA

(Caption of Case)

Joint Application of Duke Energy Carolinas, LLC  
and Broad River Electric Cooperative, Inc. for  
Reassignment of Service Area in Spartanburg  
County

BEFORE THE  
PUBLIC SERVICE COMMISSION  
OF SOUTH CAROLINA

COVER SHEET

DOCKET

NUMBER: \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_

(Please type or print)

Submitted by: Catherine E. Heigel

SC Bar Number: 9268

Address: Duke Energy Corporation

Telephone: 704.382.8123

P O Box 1006 / EC03T

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Charlotte, NC 28201-1006

Other:

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NOTE: The cover sheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for use by the Public Service Commission of South Carolina for the purpose of docketing and must be filled out completely.

DOCKETING INFORMATION (Check all that apply)

☐ Emergency Relief demanded in petition ☐ Request for item to be placed on Commission's Agenda expeditiously

☒ Other:

INDUSTRY (Check one)	NATURE OF ACTION (Check all that apply)			
<input checked="" type="checkbox"/> Electric	<input type="checkbox"/> Affidavit	<input type="checkbox"/> Letter	<input type="checkbox"/> Request	
<input type="checkbox"/> Electric/Gas	<input type="checkbox"/> Agreement	<input type="checkbox"/> Memorandum	<input type="checkbox"/> Request for Certificatio	
<input type="checkbox"/> Electric/Telecommunications	<input type="checkbox"/> Answer	<input type="checkbox"/> Motion	<input type="checkbox"/> Request for Investigator	
<input type="checkbox"/> Electric/Water	<input type="checkbox"/> Appellate Review	<input type="checkbox"/> Objection	<input type="checkbox"/> Resale Agreement	
<input type="checkbox"/> Electric/Water/Telecom.	<input checked="" type="checkbox"/> Application	<input type="checkbox"/> Petition	<input type="checkbox"/> Resale Amendment	
<input type="checkbox"/> Electric/Water/Sewer	<input type="checkbox"/> Brief	<input type="checkbox"/> Petition for Reconsideration	<input type="checkbox"/> Reservation Letter	
<input type="checkbox"/> Gas	<input type="checkbox"/> Certificate	<input type="checkbox"/> Petition for Rulemaking	<input type="checkbox"/> Response	
<input type="checkbox"/> Railroad	<input type="checkbox"/> Comments	<input type="checkbox"/> Petition for Rule to Show Cause	<input type="checkbox"/> Response to Discovery	
<input type="checkbox"/> Sewer	<input type="checkbox"/> Complaint	<input type="checkbox"/> Petition to Intervene	<input type="checkbox"/> Return to Petition	
<input type="checkbox"/> Telecommunications	<input type="checkbox"/> Consent Order	<input type="checkbox"/> Petition to Intervene Out of Time	<input type="checkbox"/> Stipulation	
<input type="checkbox"/> Transportation	<input type="checkbox"/> Discovery	<input type="checkbox"/> Prefiled Testimony	<input type="checkbox"/> Subpoena	
<input type="checkbox"/> Water	<input type="checkbox"/> Exhibit	<input type="checkbox"/> Promotion	<input type="checkbox"/> Tariff	
<input type="checkbox"/> Water/Sewer	<input type="checkbox"/> Expedited Consideration	<input type="checkbox"/> Proposed Order	<input type="checkbox"/> Other:	
<input type="checkbox"/> Administrative Matter	<input type="checkbox"/> Interconnection Agreement	<input type="checkbox"/> Protest		
<input type="checkbox"/> Other:	<input type="checkbox"/> Interconnection Amendment	<input type="checkbox"/> Publisher's Affidavit		
	<input type="checkbox"/> Late-Filed Exhibit	<input type="checkbox"/> Report		

**BEFORE  
THE PUBLIC SERVICE COMMISSION  
OF SOUTH CAROLINA  
DOCKET NO.**

In Re:	)	
	)	
<b>Joint Application of Duke Energy</b>	)	
<b>Carolinas, LLC and Broad River</b>	)	<b>APPLICATION</b>
<b>Electric Cooperative, Inc. for</b>	)	
<b>Reassignment of Service Areas in</b>	)	
<b>Spartanburg County</b>	)	
_____	)	

Duke Energy Carolinas, LLC (“Duke Energy Carolinas”) and Broad River Electric Cooperative, Inc. (“Broad River”) (together “Joint Applicants”) respectfully request that the Public Service Commission of South Carolina (“Commission”) approve this joint request to reassign certain service areas in Spartanburg County. This application is made pursuant to S.C. Code Ann. Sections 58-27-650, 58-27-660, 26 S.C. Regs. 103-823 and 103-830 (Supp. 2007), and other applicable rules and regulations of the Commission. In support of this Application, the Joint Applicants show the Commission the following:

1. The names and addresses of the Joint Applicants are:

Duke Energy Carolinas, LLC  
526 South Church Street  
Charlotte, North Carolina 29202

Broad River Electric Cooperative, Inc.  
811 Hamrick Street  
Post Office Box 2269  
Gaffney, South Carolina 29342

2. The names and addresses of the Joint Applicants' attorneys are:

FOR DUKE ENERGY CAROLINAS:

Catherine E. Heigel  
Assistant General Counsel  
Duke Energy Corporation  
526 South Church Street, EC03T  
Charlotte, North Carolina 28202  
(704) 382-8123  
[ceheigel@duke-energy.com](mailto:ceheigel@duke-energy.com)

FOR BROAD RIVER:

Trent N. Pruett, General Counsel  
Pruett Law Firm  
202 North Petty Street  
Gaffney, South Carolina 29840  
(864) 488-0120  
[pruettlawfirm@bellsouth.net](mailto:pruettlawfirm@bellsouth.net)

3. Duke Energy Carolinas is a public utility organized and existing as a limited liability company under the laws of the State of North Carolina and domesticated in the State of South Carolina. Duke Energy Carolinas is engaged in the business of developing, generating, transmitting, distributing, and selling electric power and energy to the general public within the State of South Carolina and is subject to the jurisdiction of this Commission.

4. Broad River is an electric cooperative organized pursuant to the Rural Electric Cooperative Act, Title 33, Chapter 49 of the Code of Laws of South Carolina for the purposes of transmitting, distributing, and selling electric power and energy in its assigned service territory in South Carolina.

5. Both Duke Energy Carolinas and Broad River have been granted assigned territories by the Commission to provide service in Spartanburg County, South Carolina, pursuant to the Territorial Assignment Act. S.C. Code Ann. § 58-27-610 *et seq.*

6. Upon information and belief, Brian Niemitalo proposes to develop an assisted living community to be known as Ashlan Village in Lyman, South Carolina ("Ashlan Village"). Ashlan Village is located on property that has been assigned, in part, to Duke Energy Carolinas and, in part, to Broad River. Mr. Niemitalo filed a letter with the Commission requesting that Duke Energy Carolinas provide all service to Ashlan Village. As a result, the Commission opened Docket No. 2008-172-E. Approval of this joint request for reassignment would result in Duke Energy Carolinas' serving Ashlan Village and resolve Mr. Niemitalo's complaint.

7. A residential development known as Westchester located at New Cut Road in Spartanburg County ("Westchester") is located on property that has been assigned, in part, to Duke Energy Carolinas and, in part, to Broad River.

8. The Joint Applicants propose that the Commission approve the reassignment of the service areas as follows:

- a. The service area located in Westchester that is assigned to Duke Energy Carolinas would be reassigned to Broad River; and
- b. The service area located in Ashlan Village that is assigned to Broad River would be reassigned to Duke Energy Carolinas.

9. In order to provide electric service to both Westchester and Ashlan Village as economically and efficiently as possible and to minimize the duplication of facilities to serve new premises in this area, the Joint Applicants have agreed that it would be prudent to reassign the areas as described above. Duke Energy Carolinas and Broad River entered into a Service Area Reassignment Agreement on July 17, 2008, ("Agreement") to reassign their rights and obligations to provide electric service in Ashlan Village and Westchester. A copy of the Agreement is attached as Exhibit A. The Maps depicting the Westchester service area and the Ashlan Village service area are attached as Exhibits 1 and 2 of the Agreement.

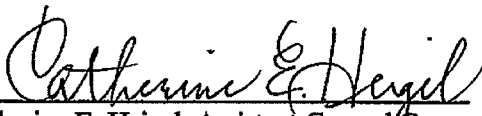
10. Duke Energy Carolinas and Broad River have no existing customers in these service areas. No facilities or territories of any other electric suppliers would be affected by the proposed change. The Joint Applicants are both fully capable of furnishing adequate and dependable electric service in the areas that each would serve if the Commission grants the application. The Joint Applicants have considered the public convenience and necessity in their negotiations for reassignment of these areas and assert that it would be in the public interest to approve the application.

11. Duke Energy Carolinas and Broad River also request that the Commission treat this verified application as an affidavit and determine the matter solely on the basis of the filing unless protests or petitions to intervene are filed.

WHEREFORE, Duke Energy Carolinas and Broad River request the Commission approve the Agreement and reassign the service areas as described.

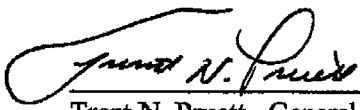
Dated this 31<sup>st</sup> day of July, 2008.

DUKE ENERGY CAROLINAS, LLC

  
Catherine E. Heigel, Assistant General Counsel  
Duke Energy Corporation  
Post Office Box 1006 (EC03T)  
Charlotte, North Carolina 28201-1006  
(704) 382-8123  
[ceheigel@duke-energy.com](mailto:ceheigel@duke-energy.com)

and

BROAD RIVER ELECTRIC COOPERATIVE, INC.

  
Trent N. Pruett, General Counsel  
Pruett Law Firm  
202 North Petty Street  
Gaffney, South Carolina 29840  
(864) 488-0120  
[pruettlawfirm@bellsouth.net](mailto:pruettlawfirm@bellsouth.net)

STATE OF NORTH CAROLINA

§

COUNTY OF MECKLENBURG

§

§

**VERIFICATION**

I, Michael Lopez, state that I am Michael Lopez

of Duke Energy Carolinas, LLC; that I am authorized to make this Verification on behalf of Duke Energy Carolinas; that the foregoing Joint Application was prepared under my direction and supervision; and that the contents are true and correct to the best of my knowledge, information, and belief.



Sworn and subscribed before me this

30 day of July, 2008.



Notary Public for

My commission expires 10-17-2009



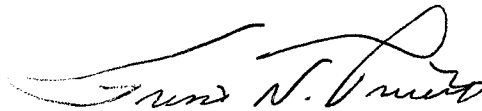
STATE OF SOUTH CAROLINA

§  
§  
§

COUNTY OF CHEROKEE

**VERIFICATION**

I, Trent N. Pruett, state that I am the General Counsel for Broad River Electric Cooperative, Inc.; that I am authorized to make this Verification on behalf of Broad River Electric Cooperative, Inc.; that the foregoing Joint Application was prepared under my direction and supervision; and that the contents are true and correct to the best of my knowledge, information, and belief.



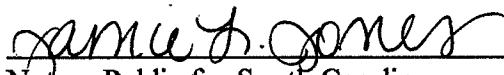
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TRENT N. PRUETT

General Counsel, Broad River Electric Cooperative, Inc.  
Pruett Law Firm  
202 North Petty Street  
Gaffney, South Carolina 29840  
(864) 488-0120

Sworn and subscribed before me this

29th day of July, 2008.



Notary Public for South Carolina

My commission expires 11-14-10



**SERVICE AREA REASSIGNMENT**  
**Between**  
**DUKE ENERGY CAROLINAS, LLC**  
**And**  
**BROAD RIVER ELECTRIC COOPERATIVE, INC.**  
**Covering areas assigned to Duke Energy and Broad River EMC**

**THIS AGREEMENT**, made this 17<sup>th</sup> day of July, 2008, by and between DUKE ENERGY CAROLINAS, LLC ("Duke Energy Carolinas") and BROAD RIVER ELECTRIC COOPERATIVE, INC. ("Broad River") (collectively "the Parties").

**WITNESSETH:**

**WHEREAS**, the Parties wish to make the most dependable, adequate, reliable electric service to customers within respective service areas; avoid unnecessary duplication of facilities, and maintain an orderly and effective operation of the electric system of both Duke Energy Carolinas and Broad River;

**WHEREAS**, both Duke Energy Carolinas and Broad River have been granted assigned territories by the Public Service Commission of South Carolina ("Commission") to provide service in Spartanburg County, South Carolina, pursuant to the Territorial Assignment Act, S.C. Code Ann. Section 58-27-610 *et seq.*;

**WHEREAS**, a residential development known as Westchester has been assigned, in part, to Duke Energy Carolinas, and in part to Broad River;

**WHEREAS**, the Parties are informed and believe that Ashlan Village, an assisted living community, is to be constructed on property which has been assigned, in part, to Broad River and, in part, to Duke Energy Carolinas;

**WHEREAS**, the Parties have agreed to the reassignment of territory in the Westchester development and Ashlan Village in order to provide service to these areas as economically and efficiently as possible; and

**WHEREAS**, in order to achieve said goals, the Parties wish to reassign as between themselves certain areas pursuant to S.C. Code Ann. Section 58-27-650 (Supp. 2007).

**NOW THEREFORE**, in consideration of the promises and covenants contained herein, Duke Energy Carolinas and Broad River, intending to be bound, agree as follows:

- A. As between themselves, the Parties shall reassign service areas which are subject to this Agreement as follows:
1. Area 1, a residential development known as Westchester located at New Cut Road in Spartanburg County, part of which is assigned to Duke under the Territorial Assignment Act, shall be re-assigned as to Broad River. A map (or plat) depicting the area is attached and incorporated as Exhibit 1.
  2. Area 2, a mixed use development known as Ashlan Village located at the intersection of Powell Lake Road and James Road in Spartanburg County, part of which is assigned to Broad River shall be reassigned to Duke Energy Carolinas. A map (or plat) depicting the area is attached and incorporated as Exhibit 2.
- B. The rights of other electric suppliers not party to this Agreement, if any, shall not be diminished nor enhanced by this Agreement and shall continue to be governed by the Code of Laws of the State of South Carolina and the rules and regulations of the Commission.

**IN WITNESS WHEREOF**, the parties have caused this Agreement to be executed as of the date first above written.

**BROAD RIVER ELECTRIC  
COOPERATIVE, INC.**

**DUKE ENERGY CAROLINAS, LLC**

By: Douglas E. Nelson  
Title: Mgr. Operation

By: [Signature]  
Title: man. territorial strategies

Attested: [Signature]

Attested: [Signature]

